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May 27, 2020

VIA ECF

Honorable Stewart D. Aaron
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Levar Henry v. City of New York, et al.
17 Civ. 3450 (JGK) (SDA)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department, and the attorney assigned to the defense of the instant matter. Defendants write to request a 60-day stay of litigation, from May, 29, 2020 to and including July 28, 2020. This is the first request for a stay of litigation and Plaintiff consents to this request.¹

On March 26, 2020, the Court granted the parties' joint application to extend discovery to and including May 29, 2020, due to the public health emergency which prevented the parties

¹ On October 31, 2019, the Court granted the parties' joint request to extend the time to complete fact discovery from November 28, 2019 to and including January 9, 2020. (Order dated October 31, 2019, ECF No. 92). On January 10, 2020, the Court granted the parties' second request to extend time to complete fact discovery to March 9, 2020, due to scheduling conflicts and the resignation of the previously assigned assistant corporation counsel. (Order dated January 10, 2020, ECF No. 96). On March 4, 2020, Defendants sought a further 3-week extension from March 9, 2020 to and including March 30, 2020 for the limited purpose of completing the four remaining depositions, which the Court granted but also ordered that no further extensions would be granted. (Order dated March 4, 2020, ECF No. 98). The Executive Orders from the Mayor and Governor mandating social distancing and work from home went into effect before that deadline. Accordingly, on March 26, 2020, the parties made another application.

from completing the three remaining depositions that were scheduled. See Order dated March 26, 2020, ECF No. 100. At the time that March 26th application was made, neither party anticipated that the social distancing restrictions imposed by the local, state and federal governments would still be in place at this time.

The depositions of three members of the New York City Police Department("NYPD"), Officer Carrero, Sergeant Figuero and Lieutenant Hernandez, remains to be taken. However, due to limited and currently strained resources of NYPD and the need for its available officers to enforce penal, administrative and other laws, NYPD has limited all officers' availability to essential purposes only, which does not include depositions in civil matters. Further, while we know that remote depositions are possible, precincts are not yet equipped to allow an officer to sit for a video deposition, should NYPD lift the restrictions on officers' availability. The use of a camera or streaming video from inside of a police precinct raises significant concerns with respect to the privacy interest of arrestees and victims who may be present at that location and the confidentiality of privileged material that may be visible. As such, the Officers to be deposed are not available, in person or remotely, before discovery closes on May 29, 2020. Additionally, Plaintiff's counsel continues to work remotely.

Accordingly, the parties respectfully request a 60-day stay of litigation, from May 29, 2020 to and including July 28, 2020, and the parties will provide the Court with a status report no later than July 28, 2020.

Defendants thank the Court for its time and consideration herein.

Defendants' request for a 60-day stay is DENIED, provided however that the Court extends the deadline of fact discovery until July 28, 2020 for the limited purpose of completing the three remaining depositions of Officer Carrero, Sergeant Figuero and Lieutenant Hernandez. SO ORDERED.
Dated: May 28, 2020



Respectfully submitted,

MaryBeth Allen /s
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cc: **VIA ECF**
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